

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Department of Corrections**

NOTICE IS HEREBY GIVEN that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend section 3335 in the California Code of Regulations (CCR), Title 15, Division 3, relating to the frequency with which the case factors of inmates detained in segregated housing are reviewed by an Institution Classification Committee (ICC).

PUBLIC HEARING:

Date and Time: **September 7, 2005, 10:00 a.m. - 12:00 p.m.**
Place: Resource Agency Auditorium
1416 Ninth Street
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **September 7, 2005 at 5:00 pm.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)358-2636; or by e-mail at RPMB@executive.corr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief,
Regulation and Policy Management Branch
Department of Corrections
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone: (916) 358-1655**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**John McClure
Regulation and Policy Management Branch
Telephone: (916) 358-1655**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Mike Mott, Correctional Counselor III
Institutions Division
Telephone: (916) 322-7150.**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION, OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less

burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.corr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

This action will amend Title 15, Section 3335, in that when an act of violence is committed in an institution by an inmate, the perpetrator is removed from the general population and placed in an Administrative Segregation Unit (ASU) and will receive a due process review by an ICC to ensure that their restriction in liberty is justified. Section 3335 stipulates that an initial review by the ICC occur within 10 days of placement, and subsequent reviews occur every 30 days thereafter until the inmate is released. Over the past several years violence within the Department has increased such that there has been

a corresponding increase in the ASU population. In an effort to handle the increase in workload with existing staff resources, inmates that are housed in ASU for less than serious disciplinary reasons will appear before an ICC within every 90 days, and within every 180 days for disciplinary reasons. This change will allow ICC to take action on a case as soon as possible, but not waste staff or committee time routinely reviewing cases on which action is not yet possible due to an incomplete investigation or a pending rules violation report. Staff time in attempting to conduct the additional hearings in which no action is possible could result in some inmates having their liberty impacted by not conducting a due process review at a time when the matters surrounding placement have been resolved and release or transfer could have been accomplished.